

OFFICE OF THE MONITOR

NUNEZ, ET AL. V. CITY OF NEW YORK, ET AL.

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July 3, 2024

VIA ECF

The Honorable Laura Taylor Swain
United States District Court
Southern District of New York
500 Pearl Street
New York, NY 10006

Re: Nunez, et al. v. City of New York, et al., 11-cv-5845 (LTS) (JCF)

Dear Chief Judge Swain,

We write to provide the Court with an update on a few issues in advance of the status conference as well as provide a proposed agenda for the status conference scheduled for July 9, 2024 at 2:00 p.m.

- **Scheduling:** The Monitoring Team has conferred with the Parties regarding a proposed schedule for the next few months as described in the Monitoring Team's June 27, 2024 Report (dkt. 735) at pgs. 6 to 7. As a result of these discussions, the Monitoring Team's proposal outlined in the June 27, 2024 Report has been altered as outlined below. Below is the proposed schedule for the Court's consideration:
 - 14 Days prior to Oral Argument: Defendants' request the opportunity to supplement the factual record 14 days prior to Oral Argument. *See* Joint Status Report at pg. 11. Counsel for the Plaintiff Class and counsel for the U.S. Attorneys' Office for the Southern District of New York oppose Defendants' request. *See* Joint Status Report at pg. 11. The Monitoring Team takes no position.
 - September 24 or 25, 2024: Court to schedule oral argument on the Motion for Contempt and Appointment of a Receiver on one of these two days. These dates were identified after the Monitoring Team consulted with the Parties who all report they are available on either of these dates.
 - November 21, 2024: Monitoring Team's Report pursuant to the Court's April 29, 2024 Order (dkt. 709).

- **Update re: Local Law 42:** The Monitoring Team has engaged in discussions with the Parties over the last few weeks. These discussions have revealed that additional work between the Monitoring Team and the Department is necessary in order to better focus the meet and confers that must take place among the Parties. Recently, counsel for the City and DOC have engaged counsel for the City Council who now will also need to be included in the meet and confer process. As a result, the City has reported that it will not be making any proposed motion in advance of the status conference on July 9, 2024. Accordingly, discussion about Local Law 42 during the status conference on July 9 is pre-mature given the need for additional discussions and meet and confer to determine what, if any, motion may be made before the Court. Therefore this issue is not included on the agenda for the status conference.
- **Proposed Agenda for July 9, 2024 Status Conference:** Attached is a proposed agenda for the status conference on July 9, 2024 at 2:00 p.m.

We appreciate the Court's attention to this matter.

Sincerely,

s/ Steve J. Martin
Steve J. Martin, *Monitor*
Anna E. Friedberg, *Deputy Monitor*

July 9, 2024 Court Conference Agenda

- Update on Current State of Affairs (*Monitor & Deputy Monitor*)
- Motion for Contempt & Appointment of Receiver (*Counsel for the Plaintiff Class, U.S. Attorneys' Office, Defendants*)
 - Facts in Dispute
 - Plaintiffs Proposed Findings of Facts
 - Accuracy Disputes
 - Legal Objections: Monitor's Opinions or Conclusions
 - Legal Disputes: Opinions of Declarant Michael Jacobson
 - Legal Disputes: Materiality and Other Legal Objections
 - Defendants Proposed Findings of Facts
 - Accuracy Disputes
 - Legal Disputes: Materiality and Other Legal Objection
 - Plaintiffs Supplemental Proposed Findings of Facts
 - Further Proceedings to Resolve the Motion
 - Evidentiary Hearing
 - Oral Argument & Defendants Request to Supplement the Record
 - Any other outstanding matters related to the motion practice
- Proposed Upcoming Schedule (*Deputy Monitor*)